

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2004-158273-RMG

REGULATORY PROJECT MANAGER: Rebecca M. Gruber **Date:** November 30, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: **In the office (Y/N)** N **Date:**

At the project site (Y/N) Y **Date:** Sept. 23, 2004

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Washington

Center coordinates of site by latitude & longitude coordinates:
43.4467, -88.1703 (NAD 27)

Approximate size of site/property (including uplands) in acres
 60 acres

Name or waterway of watershed: Milwaukee

3 unnamed wetlands (noted by transects 8, 9, and 10)

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Feet	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	(sum 3 basins)								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?				X	
Is or would be used as habitat by other migratory birds that cross state lines?				X	
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-

jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: **Preliminary Or Approved X**

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite):

Three wetlands (denoted with transects 8, 9, and 10) are depressional seasonally flooded wetlands. The first basin (transect 8) is dominated by buckthorn, red osier dogwood, and eastern cottonwood. The wetland noted by transect 9 is dominated by green ash and eastern cottonwood. The third basin (transect 10) is dominated by quaking aspen, fowl manna grass, asters, and touch-me-not.

These three wetlands lie entirely within Section 1 of Township 11N, Range 19E., Washington County, Wisconsin. As such, the wetland boundaries lie entirely within the State of Wisconsin (intra-state wetlands). These three wetlands do not display any connection to, nor are they considered adjacent to (separated by roadway or other anthropogenic structure) any waters of the U.S. The nearest connection to any waterway is approximately 250 feet away (minimum distance from any of the three wetlands to the central wetland associated with the Milwaukee River); therefore, these three wetlands are considered isolated.

The wetlands denoted by transects 8, 9, and 10 are not, nor are they likely to be, used by interstate or foreign travelers for recreation, industry, or commerce. The wetlands lie on private property, without any public access. In addition, the wetlands do not contain fish or shellfish which could be taken and sold. For these reasons, no commerce connection to any of the three wetlands has been established.

One other wetland was found on site, and was determined to lie within the regulatory jurisdiction of the Corps of Engineers pursuant to Section 404 of the Clean Water Act. This wetland lies is large and traverses the property from the northwest corner to encompass most of the east half of the property. This wetland includes Allis Lake, and is part of the tributary system of the Milwaukee River, a navigable water of the United States.